IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CRL.R.No.443 of 1996**
DATE OF DECISION: 17.10.2007

CHARAN SINGH ....PETITIONER

VERSUS

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARBANS LAL.

PRESENT: Mr. Baldev Singh, Sr. Advocate with
Mr. Sudhir Sharma, Advocate
for the petitioner.

Mr. A.S.Brar, Deputy Advocate General, Punjab.

HARBANS LAL, J.

This revision petition is directed against the judgment and order of sentence dated 8.8.1994 passed by the Court of Shri Jai Karan, Judicial Magistrate Ist Class, Anandpur Sahib, whereby he convicted and sentenced the revision petitioner to undergo rigorous imprisonment for 6 months and to pay fine of Rs.2000/- and in default thereof to undergo further rigorous imprisonment for one month under Section 279 of IPC and further sentenced to undergo rigorous imprisonment for 2 years and to pay fine of Rs.1000/- or in default of it, to undergo further rigorous imprisonment for 6 months under Section 304-A of IPC as well as the judgment dated 8.7.1996 rendered by the Addl. Sessions Judge, Rup Nagar, whereby he dismissed the appeal, holding that there was no merit in it.

The facts in brief of the prosecution case are that on 12.7.1990 a ruqa from the Senior Medical Officer, Civil Hospital, Anandpur Sahib was received in the police station Anandpur Sahib, to the effect that Arjan Singh son of Veer Singh resident of Badal had died in an accident. On receipt of the ruqa, HC Satwant Singh alongwith C.Sadhu Ram and Sushil Kumar went to the hospital. HC Satwant Singh recorded the statement of Darshan Singh son of Prem Singh. He stated that he was a resident of village Badal and was agriculturist by profession. On that day he along with Ranjit Singh son of Vir

Singh resident of Badal were standing on the main road Kiratpur-Anandpur Sahib and were cleaning their teeth. Arjan Singh son of Vir Singh resident of Badal was found coming after doing his duty as Home Guard on the railway track. It was about 6.00 A.M. He was coming on a cycle. In the meantime, one Maruti Car bearing Registration No.DDD-8835 of light sky colour came at a very fast speed and without blowing any horn. It was being driven negligently by a clean shaven person. The car came from the side of Kiratpur Sahib and hit the cycle of Arjan Singh, who was dragged to a distance of 14/15 karams. After hitting, the car driver ran away from the spot towards Nangal side. Darshan Singh alongwith Ranjit Singh removed Arjan Singh in a truck to Civil Hospital, Anandpur Sahib. After reaching the Civil Hospital, it was found that Arjan Singh had died. Cycle of Arjan Singh was broken. The accident took place due to rash and negligent driving of the Maruti Car driver. He could recognize the driver of the car. On the basis of his statement a case under Section 279/427 and 304-A IPC was registered. During the investigation, the car was taken into possession and the accused was arrested on 14.7.1990.

The learned trial Magistrate after recording the prosecution evidence and statement of the accused under Section 313 Cr.P.C. and after hearing the learned APP for the State and the learned defence counsel, convicted and sentenced the revision petitioner as noticed at the outset. Feeling aggrieved with the judgment/order dated 8.8.1994, the petitioner preferred an appeal, which was also dismissed by the learned Addl. Sessions Judge, Rup Nagar.

This revision petition came up for hearing on 15.7.1996 before this Court. While admitting the same, the petitioner was directed to be released on bail.

I have heard the learned counsel for the parties.

Learned counsel for the petitioner having realized that the evidence adduced by the prosecution sufficiently substantiate the charge and the same has also been accepted and relied upon by the courts below and thus it will be difficult for him to persuade this Court to form a contrary view and that too in exercise of its revisional jurisdiction, where the scope of interference is quite limited, confined his contention to make out a case for the release of petitioner on probation. He has urged with great eloquence that in view of the observations made in *Rakesh Kumar* Vs. *State of Punjab*, 2004 (4) Recent Criminal Reports (Criminal) 218, *Krishan Kumar* Vs. *State of Punjab*, 2005(3) Recent Criminal Reports (Criminal) 579, *Chuni Lal* Vs. *State of Haryana*, 2006(1) Recent Criminal Reports (Criminal) 844, *Roshan Lal* Vs. *State of Punjab*, 2006(1) Recent Criminal Reports (Criminal) 795, *Ram Pal* Vs. *State of Punjab*, 2006(1) Recent Criminal Reports (Criminal) 784, *Santokh Singh* Vs. *State of Punjab*, 2006(1) Recent Criminal Reports (Criminal) 834, the petitioner may be released on probation.

I have given a deep and thoughtful consideration to this submission.

In re: Chunni Lal (Supra), this Court has observed that in a case under Section 279/304-A of IPC, accused may be released on probation on the following grounds:

(i) Having remained on bail for a sufficiently long period,
(ii) Accused not a previous convict and did not indulge in any criminal activity during the post conviction period,
(iii) Faced agony of trial for a considerable long period, and
(iv) being the sole bread earner.

Adverting to the facts of the current case, the petitioner was admitted to bail by this Court as far back as on 15.7.1996. There is nothing on the record to show that he misused the bail. There is no denying the fact that the revision petitioner is not a previous convict nor indulged in any criminal activity

during the post conviction period. The accident relates back to the year 1990. Obviously, a period exceeding 17 years has elapsed. The petitioner has been facing the agony of trial since 1990. As submitted by the learned counsel for the petitioner, the petitioner is the sole bread winner of the family.

Taking into consideration, the entirety of facts and circumstances of the case and the observations rendered in the authorities referred to by the learned counsel for the petitioner, I deem it expedient to release the petitioner on probation of good conduct. As such, it is directed that the petitioner shall be released on probation for a period of two years under Section 4(1) of Probation of Offenders Act on his furnishing personal bonds in the sum of Rs.25000/- with one surety in the like amount to the satisfaction of the trial Court. The bonds shall be furnished within three months from today. During his probation period, he will keep the peace and be of good behaviour. However, he will be called upon to receive sentence as and when required by the Court. To compensate heirs of the deceased, it is directed that the petitioner shall deposit a sum of Rs.15000/- as compensation to be paid to heirs of deceased Arjan Singh.

With the above modification, this petition stands dismissed.

October 17, 2007 **(HARBANS LAL)**
Vimal **JUDGE**